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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,680	01/04/2005	Chan Wah Ng	P25932	5682

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EXAMINER	
HAMZA, FARUK	
ART UNIT	**PAPER NUMBER**
2455	

NOTIFICATION DATE	DELIVERY MODE
04/03/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/506,680	NG ET AL.	
	Examiner	Art Unit	
	FARUK HAMZA	2455	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 September 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 September 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *06/12/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the application filed on September 17, 2004. Claims 1-21 are pending.

Specification

2. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Objections

3. Claim 12 is objected to because of the following informalities: It is dependent of claim 13. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, claim 1 recites in the preamble “A network control framework apparatus...comprising”, the body of the claim include a gateway module, a rule engine module, one special package, a rule injected module, means for distribution, means for parsing, means for identifying and means for retrieval. All of these elements are software. A system or an apparatus claim should always

claim the structure or the hardware that performs the function. Applicant's claimed limitations consist of modules that do not describe the structure of the device. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 recites in the preamble "A network control framework apparatus...comprising", the body of the claim include a gateway module, a rule engine module, one special package, a rule injected module, means for distribution, means for parsing, means for identifying and means for retrieval. All of these elements are software. Therefore, claim 1 is non-statutory because it is directed towards software, per se, lacking storage on a medium, which enables any underlying functionality to occur. It is not clear whether instructions are in executable form and therefore there is no practical application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Basani et al. (U.S. Patent Number 6,718,361) hereinafter referred as Basani.

As to claim 1, Basani teaches a network control framework apparatus for controlling resources at an intermediate network element connecting two or more communications networks comprising:

a) a gateway module (101) providing gateway functionality, b) a rule engine module (102) to perform network resource control decision based on specified rules, wherein the rules are specified in a rule specification format hereafter referred to as a Rule Specification, c) at least one special package (103) added on to the rule engine module offering specialized functionality to the rule engine module, d) a rule injection module (104) to inject or remove Rule Specification to or from the rule engine module, and e) a means for distribution of said Rule Specification to at least one intermediate network element comprising i. means for distribution of indications in the Rule Specification to indicate that part or whole of the Rule Specification is to be distributed, ii. means for distribution of a signature embedded into data packets to announce the capabilities of the intermediate network elements the data packet traversed, iii. means for parsing the Rule Specification to determine if part or whole of the specified Rule Specification is distributed, iv. means for identifying the target network element to distribute part or whole of a Rule Specification, v. means for distribution of a

signalling embedded into data packets to inform target network element of the distribution of part or whole of Rule Specification, vi. means for retrieval of the part or whole of Rule Specification distributed to the target network element from the intermediate network element that distributes the part or whole of Rule Specification (Column 5, lines 11-Column 6, lines 47, Column 11, lines 55-Column 12, lines 53).

As to claim 2, Basani teaches the apparatus as recited in claim 1, wherein the format of said indications of part or whole of Rule Specification for distribution comprises i. the specification of the direction of distribution by specifying the end-point of the specified direction, ii. the specification of the number of intermediate network elements towards the specified endpoint, iii. the specification of the number of intermediate network elements from the specified endpoint, and/or iv. the specific content distributed at the intermediate network elements (Column 11, lines 55-Column 12, lines 53).

As to claim 3, Basani teaches the apparatus as recited in claim 1, wherein the format of said signature embedded into data packets comprises i. the identification of the intermediate network element the signature belongs to, ii. the special packages that are installed on the intermediate network element the signature belongs to, and iii. the capability of accepting or generating part or whole of a Rule Specifications for distribution (Column 15, lines 39-48).

As to claim 4, Bansani teaches the apparatus as recited in claim 1 wherein the signatures of the intermediate network elements that the data packets

traversed are stored with the starting and ending points between which the data packets traversed in the order of which the data packets traversed and the transmission protocol the data packets belongs to.

As to claim 5, Basani teaches the apparatus as recited in claim 1, wherein the format of said signature comprises the identification of the intermediate network element and the installed at least one special package at the intermediate network element (Column 15, lines 49-57).

As to claim 6, Basani teaches the apparatus as recited in claim 1 claims 1, wherein the format of said signatures comprises i. the identification of the ending point that the data packets flow to, ii. the identification of the starting point that the data packets flow from, iii. the transmission protocol the data packets belongs to, iv. the array of signatures of the intermediate network elements in the order of the data packets traverse from the intermediate network element where the data format is stored to the ending point, and v. the number of signatures of the intermediate network elements in the order of the data packets traverse from the intermediate network element where the data format is stored to the ending point (Column 15, lines 39-57).

As to claim 7, Basani teaches the apparatus as recited in claim 1, further comprising means for signaling to signal the intermediate network element to express the desire to distribute collection of rules in a Rule Specification to the intermediate network element comprising i. the identification of the intermediate network element where the collection of rules in a Rule Specification is

distributed to, ii. the identification of the intermediate network element where the collection of the at least one rules in a Rule Specification is distributed from, and iii. the identification of the collection of the at least one rule in a Rule Specification (Column 15, lines 39-57).

As to claim 8, Basani teaches the apparatus as recited in claim 1, further comprising a means of retrieving the collection of rules in a Rule Specification from the intermediate network element that distributes the collection of rules by the intermediate network element where the collection of rules is distributed to, comprising i. means for establishing a communication channel between the intermediate network element where the collection of rules is distributed to and the intermediate network element where the collection of rules is distributed from, ii. means for providing the identification of the collection of rules that is distributed via the communications channel by the intermediate network element where the collection of rules is distributed to, and iii. means for transmitting the collection of rules that is distributed via the communications channel by the intermediate network element where the collection of rules is distributed from (Column 11, lines 55-Column 12, lines 53).

As to claim 9, Basani teaches the apparatus as recited in claim 1, wherein said communications networks comprise an endpoint node, hereafter referred to as a client node, for sending a request to the other endpoint node, hereafter referred to as a server node, via at least one intermediate network element, wherein the server node is adapted for accepting the request with an appropriate

response, wherein said communications networks further comprise means for setting up a communications channel between the server node and the client node through the intermediate network elements, and wherein the server node is adapted for starting transmitting data packets through the communications channel to the client node until the client node sends a request, via the intermediate network elements, to tear down the communications channel, and wherein the client node is adapted for transmitting information about the transmission statistics back to the server node (Column 11, lines 55-Column 12, lines 53).

As to claim 10, Basani teaches the apparatus as recited in claim 9, further comprising a means of providing the author of Rule Specification to trigger a singular or plurality of rules at a intermediate network element based on the following control methods i. the rule to be evaluated when the intermediate network element received a request packet from the client node to the server node, ii. the rule to be evaluated when the intermediate network element received a response packet from the server node to the client node, iii. the rule to be evaluated when the intermediate network element received a data packet containing contents sent by the server node to the client node through the communications channel established between the server node and the client node, iv. the rule to be evaluated when the intermediate network element received a data packet containing the transmission statistics from the client node to the server node, v. the rule to be evaluated when the intermediate network

element received a specified number of data packet containing contents sent by the server node to the client node through the communications channel established between the server node and the client node, and vi. the rule to be evaluated when the intermediate network element received a data packet containing contents sent by the server node to the client node through the communications channel established between the server node and the client node after the elapse of a recurrent timer of a specified timer value (Column 11, lines 55-Column 12, lines 53).

As to claim 11, Basani teaches the apparatus as recited in claim 1, comprising a control means for using a set of parameters in the Rule Specification to control at least one content or content delivery sessions to achieve device independence in the delivery of said content, comprising i. the set of User Preference parameters consisting of the preferences of the human user consuming the content, ii. the set of Agent Capabilities parameters consisting of the capabilities of the software agent employed by the human user to retrieve the content, iii. the set of Device Capabilities parameters consisting of the capabilities of the hardware employed by the human user to retrieve the content, and iv. the set Natural Environment parameters consisting of the information about the environment in which the human user retrieves the content (Column 16, lines 8-49).

As to claim 12, Basani teaches the apparatus as recited in claim 13, wherein the set of User Preference parameters comprises i. the human user's

preferences on the method of retrieving the content, ii. the human user's preferences on the language used in the retrieved contents, iii. the human user's preferences on the presentation of the retrieved content, iv. the age group of the human user retrieving the content, v. the gender of the human user retrieving the content, and vi. the employment status of the human user retrieving the content (Column 10, lines 51-65).

As to claim 13, Basani teaches the apparatus as recited in claim 11, wherein the set of Agent Capabilities parameters comprises i. the type of software agent employed by the human user to retrieve the content, ii. the content formats supported by the software agent employed by the human user to retrieve the content, iii. the content languages supported by the software agent employed by the human user to retrieve the content, and iv. the transmission protocols supported by the software agent employed by the human user to retrieve the content (Column 15, lines 39-57).

As to claim 14, Basani teaches the apparatus as recited in claim 11, wherein the set of Device capabilities parameters comprises i. the type of hardware employed by the human user to retrieve the content, ii. the processor speed and processor family of the hardware employed by the human user to retrieve the content, iii. the memory capacity of the physical and secondary storage of the hardware employed by the human user to retrieve the content, iv. the display depth and resolution of the hardware employed by the human user to

retrieve the content, and v. the operating system running on the hardware employed by the human user to retrieve the content (Column 15, lines 39-57).

As to claim 15, Basani teaches the apparatus as recited in claim 11, wherein the set of Natural Environment parameters comprising i. the information of the location where the human user is retrieving the content, ii. the information of the mobility of the human user retrieving the content, and iii. the information of the illuminations conditions in which the human user is retrieving the content (Column 9, lines 14-40).

As to claim 16, Basani teaches the apparatus as recited in claim 11, wherein the at least one special package is capable of interpreting and evaluating said Rule Specification (Column 18, lines 8-18).

Claims 17-21 do not teach or define any new limitations other than above claims 1-16. Therefore, claims 17-21 are rejected for similar reasons.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention, as well as the context.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll –free).

/Faruk Hamza/

Examiner, Art Unit 2455